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Letter dated 16 December 1993 from the Permanent Representative of Equatorial Guinea to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to transmit herewith the statement by the Minister for Foreign Affairs and Francophone Questions, His Excellency Mr. Benjamín Mba Ekua Miko, on the expulsion of the Consul-General of Spain, Mr. Bustamante, and the scheduled evacuation plan of the Spanish Government (see annex).

I should be grateful if you would have the text of this letter and its annex circulated as an official document of the General Assembly, under agenda items 10, 18, 23, 51, 79, 80, 87, 91, 114, 138, 139 and 140.

(Signed) Dámaso OBIANG NDONG
Ambassador
Permanent Representative

ANNEX

Statement by Mr. Benjamín Mba Ekua Miko, Minister for Foreign and Francophone Affairs of Equatorial Guinea, on the expulsion of the Consul-General of Spain, Mr. Bustamante

(Malabo, 15 December 1993)

The Minister for Foreign Affairs of Spain, Mr. Javier Solana, informed the Spanish press that the reasons alleged by the Government of Equatorial Guinea, for declaring the Consul-General of Spain in Bata, Mr. Diego María Sánchez Bustamante, persona non grata on 11 December 1993, were "unfounded". For this reason, I am grateful to the communication media for the opportunity and possibility that they are providing to me in order to inform and shape national and international public opinion about the most important details concerning the declaring of Mr. Bustamante persona non grata.

Mr. Bustamante was declared persona non grata and asked to leave the country on 12 December 1993 for interfering in internal affairs of Equatorial Guinea which are not covered under international law or the 1963 Vienna Convention on Consular Relations. In order to illustrate this statement we are able to cite, inter alia, the following instances:

(a) The Consul-General of Spain in Bata, Mr. Bustamante, has been instigating the Spanish community residing in that city to sign a document alleging that Spanish nationals in Equatorial Guinea are in physical danger. The request was rejected by the Spaniards themselves when they found no reason to justify such an action;

(b) Persistent incitement of Spanish collaborators to leave their posts in the interior of the country by taking advantage of any individual allegations made by them;

(c) The Consul- General had made the Consulate headquarters a place for holding political meetings and gatherings, such as a recent meeting with the political parties that had decided not to participate in the elections of 21 November 1993, where they were advised to form a parallel government in order to create political uncertainty and various types of insecurity in the country.

These and other instances are clearly incompatible with the Convention, if we recall that the primary functions of a consul or a consulate are "furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them" and "ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested". It is thus clear to every one that the actors in consular and/or diplomatic relations are States and Governments and that their mediators are consular and/or diplomatic agents.

With regard to this incident, it should be understood and made clear that declaring someone persona non grata is an act that for several decades now has been provided for under international, diplomatic and consular law and the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations. It should not necessarily be interpreted as a prelude to or desire for severance of relations between two States, but should rather be viewed as a peaceful act and an indisputable right of any receiving State which, in order to improve its relations with the sending State, chooses to remove from its territory a diplomatic or consular agent who represents, in its opinion, a danger for the domestic security of the receiving State or a threat or impediment to the harmonious development of relations between the States concerned.

The Secretary-General of the United Nations, Mr. Boutros Boutros-Ghali, very recently (in 1992) stressed that the primary aim of preventive diplomacy for peacemaking and peace-keeping was "to seek to identify at the earliest possible stage situations that could produce conflict, and to try through diplomacy to remove the sources of danger before violence results".

Mr. Bustamante's behaviour since he was accredited as Consul-General in Bata, which was incompatible with the Conventions in question and obstructed the democratization and electoral processes under way in Equatorial Guinea, is not an isolated phenomenon. Nor is the principle of non-interference in the internal affairs of other States outmoded, as certain forces and sources of evil are attempting to demonstrate today. Indeed, in December 1991, on the basis of facts recorded in other regions, the General Assembly, in resolution 46/130, on respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes:

> "Reiterates that, by virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right, freely and without external interference, to determine their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect that right in accordance with the provisions of the Charter;"

And in this context,

> "Urges all States to respect the principle of non-interference in the internal affairs of States and the sovereign right of peoples to determine their political, economic and social system;" and
>
> "Strongly appeals to all States to refrain from financing or providing, directly or indirectly, any other form of overt or covert support for political parties or groups and from taking actions to undermine the electoral processes in any country".

The Government of Equatorial Guinea, having observed for more than a year that Mr. Bustamante has been and is still carrying out activities that are incompatible with the domestic legislation of Equatorial Guinea and precepts of international law that are applicable and have been reaffirmed, took an initial

step by calling upon Mr. Bustamante, through his Government, to reconsider his hostile and heedless behaviour with regard to the legitimate Government of Equatorial Guinea. In view of the continuation of such behaviour, as a second step in order to protect the dignity of the Spanish diplomat and maintain the harmonious relations between Equatorial Guinea and Spain, the Government requested the withdrawal of Mr. Bustamante in his capacity as Consul-General of Spain. Having failed to receive a satisfactory reply from the Spanish Government, after approximately 15 months of peaceful activity and the resumption of provocative acts, harassment and instigation of political violence by Mr. Bustamante, the Government has no alternative but to resort to a third peaceful step, "taking the firm decision to declare persona-non-grata Mr. Diego María Sánchez Bustamante, Consul-General of Spain in Bata", who left our country last Sunday, 12 December 1993.

In view of all the foregoing considerations, the Government of Equatorial Guinea is surprised to learn that, as a consequence of the Bustamante incident, the Spanish Government has a contingency plan to evacuate the Spanish nationals residing in Equatorial Guinea. The Government of Equatorial Guinea finds no reason to justify such a plan since all the Spanish residents in the country have stated and maintain that they feel at ease living in Equatorial Guinea and coexist peacefully with its nationals and that, at the same time, the State institutions provide protection for their physical safety and property.

Nevertheless, if the Spanish Government is determined to implement its contingency plan to evacuate its nationals residing in Equatorial Guinea, it would be desirable for such a measure to be carried out in the presence of United Nations observers in order to determine the will of the Spanish residents and the social and political conditions in which such an evacuation takes place.

In spite of this, the Government of Equatorial Guinea has observed that the notion of an evacuation plan seems to indicate a readiness on the part of the Spanish Government to sever the ties and friendly relations between the peoples of Spain and Equatorial Guinea since this is not the first time that such a plan has been drawn up or that there has been such an outcome, which at the insistence of the Spanish Government itself led to the evacuation of Spanish nationals in March 1969, with disastrous consequences for Equatorial Guinea as well as Spain.

In view of these ominous developments, it is the firm position of the Government of Equatorial Guinea to draw attention to the matter and remind Spain that it should prevent a recurrence of that event.